

## GOVERNMENT (STATE) COMMENTS (GS)

### GS1

**From:** Dillingham, Tim@Wildlife [Tim.Dillingham@wildlife.ca.gov]  
**Sent:** Thursday, July 18, 2013 2:56 PM  
**To:** Parsons, 405.Supplemental.Draft.EIR.EIS; Smita.Deshpande@dot.ca.gov  
**Subject:** Supplemental Draft Environmental Impact Report/Environmental Impact Statement for the I-405 Improvement Project, SR-73 to I-605

Thank you for the opportunity to review the above referenced document. The California Department of Fish and Wildlife does not have any comments on this supplemental document. } 1

*Tim Dillingham*

Senior Environmental Scientist (Specialist)  
California Department of Fish and Wildlife  
3883 Ruffin Road  
San Diego, CA 92123  
(858) 467-4250

### GS2

STATE OF CALIFORNIA  
PUBLIC UTILITIES COMMISSION  
320 WEST 4<sup>TH</sup> STREET, SUITE 500  
LOS ANGELES, CA 90013

EDMUND G. BROWN JR., Governor



July 22, 2013

Smita Deshpande  
California Department of Transportation - District 12  
3347 Michelson Drive, Suite 380  
Irvine, CA 92612

Dear Ms. Deshpande:

Re: SCH 2009091001; San Diego Freeway (I-405) Improvement Project

The California Public Utilities Commission (Commission) has jurisdiction over the safety of highway-rail crossings (crossings) in California. The California Public Utilities Code requires Commission approval for the construction or alteration of crossings and grants the Commission exclusive power on the design, alteration, and closure of crossings.

The Commission's Rail Crossings Engineering Section (RCES) is in receipt of the *Supplement/Subsequent Environmental Impact Report (SEIR)* for San Diego Freeway (I-405) Improvement Project from the State Clearinghouse. According to the SEIR, the California Department of Transportation (Caltrans) proposes to improve the San Diego Freeway (I-405) located approximately between State Route 73 and Interstate Freeway 605. The United States Navy (US Navy) Seal Beach Branch line crossing (CPUC No. 122SB-1.32-A) and the Union Pacific Railroad Company (UPRR) Stanton Branch line crossing (CPUC No. 001BAA-518.96-A and DOT No. 748037J), according to our database, located under the I-405 within this particular freeway segment. } 1

Modifications to an existing grade separated crossing require authorization from the Commission. More information can be found at:

<http://www.cpuc.ca.gov/PUC/safety/Rail/Crossings/go88b.htm>

Caltrans should arrange a meeting with RCES, US Navy and UPRR staff to discuss relevant safety issues and requirements for authorization to alter the existing grade-separated crossings.

If you have any questions, please contact Chi Cheung To at (213)-576-5766, email at [cct@cpuc.ca.gov](mailto:cct@cpuc.ca.gov).

Sincerely,

Chi Cheung To  
Utilities Engineer  
Rail Crossings Engineering Section  
Safety & Enforcement Division

CC: State Clearinghouse, P.O. Box 3044, Sacramento, CA 95812-3044  
Ken Chiang, CPUC Utilities Engineer, Los Angeles Office

GS3

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Andre Boutros, Executive Director

STATE OF CALIFORNIA



EDMUND G. BROWN Jr., Governor

CALIFORNIA TRANSPORTATION COMMISSION

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FAX (916) 553-2134  
(916) 554-4245  
<http://www.ctc.ca.gov>

August 8, 2013

Ms. Smita Deshpande, Branch Chief  
Caltrans – District 12, ATTN: 405 SDEIR-DEIS Comment Period  
2201 Dupont Drive, Suite 200  
Irvine, CA 92612

RE: Supplemental Draft Environmental Impact Report/Environmental Impact Statement  
(SDEIR/EIS) for the San Diego Freeway (Interstate 405) Improvement Project

Dear Ms. Deshpande,

The California Transportation Commission, as a Responsible Agency, received the SDEIR/EIS prepared by the California Department of Transportation (Department) for the San Diego Freeway (Interstate 405) Improvement Project (project) in Orange and Los Angeles Counties. The project proposes to construct improvements to Interstate 405 from State Route 73 to Interstate 605 that will widen the corridor, relieve congestion, and improve operational efficiencies.

The Commission considered the SDEIR/EIS at its August 6, 2013 meeting. The Commission has no comments pertaining to the environmental impacts or the alternatives considered in the SDEIR/EIS. However, the Commission recommends that the Department and its partners identify and secure the necessary funding to complete the project. In addition, since design-build procurement and tolling are under consideration, the Commission encourages Caltrans and its partners to ensure early communication and coordination with the Commission in the event it is anticipated that the Commission will be requested to approve the project for delivery through either a design-build or public private partnership procurement consistent with the provisions of Senate Bill 4 (SBX2 4, Statutes of 2009), or for construction approval to allow for financing and tolling approval by the California Transportation Financing Authority as provided for in Assembly Bill 798 (AB 798, Statutes of 2009).

The Commission should be notified as soon as the environmental process is complete as the Commission cannot allocate funds to a project for design, right of way or construction until the final environmental document is complete and the Commission has considered the

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Ms. Smita Deshpande  
August 8, 2013  
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environmental impacts of the project and approved the environmentally cleared project for future consideration of funding.

Upon completion of the CEQA process, prior to the Commission's action to approve the project for future consideration of funding, the Commission expects the lead and/or implementing agency to provide written assurance whether the selected alternative identified in the final environmental document is or is not consistent with the project programmed by the Commission and included in the Regional Transportation Plan. In the absence of such assurance of consistency, it may be assumed that the project is not consistent and Commission staff will base its recommendations to the Commission on that fact. The Commission may deny funding to a project which is no longer eligible for funding due to scope modifications or other reasons. } 1

If you have any questions, please contact Susan Bransen, Chief Deputy Director, at (916) 653-2090.

Sincerely,

ANDRE BOUTROS  
Executive Director

c: Katrina Pierce, Chief, Caltrans Division of Environmental Analysis

GS4

STATE OF CALIFORNIA

Edmund G. Brown, Jr., Governor

**NATIVE AMERICAN HERITAGE COMMISSION**

1550 Harbor Boulevard  
West Sacramento, CA 95691  
(916) 373-3715  
(916) 373-5471 – FAX  
e-mail: ds\_nahc@pacbell.net

July 8, 2013

Ms. Smita Deshpande, Chief

**California Department of Transportation – District 12**

3347 Michelson Drive, Suite 380  
Irvine, CA 92612

RE: SCH# 2009091001 CEQA Notice of Completion; Supplemental Environmental Impact Report (SEIR) for the "San Diego Freeway (I-405) Improvement Project," located from Fountain Valley and Huntington beach to near Newport Beach; Orange County, California

Dear Ms. Deshpande:

The Native American Heritage Commission (NAHC) has reviewed the CEQA Notice regarding the above referenced project. In the 1985 Appellate Court decision (170 Cal App 3<sup>rd</sup> 604), the court held that the NAHC has jurisdiction and special expertise, as a state agency, over affected Native American resources impacted by proposed projects, including archaeological places of religious significance to Native Americans, and to Native American burial sites.

The California Environmental Quality Act (CEQA) states that any project that causes a substantial adverse change in the significance of an historical resource, which includes archeological resources, is a significant effect requiring the preparation of an EIR (CEQA guidelines 15064.5(b)). To adequately comply with this provision and mitigate project-related impacts on archaeological resources, the Commission recommends the following actions be required:

Contact the appropriate Information Center for a record search to determine if a part or all of the area of project effect (APE) has been previously surveyed for cultural places(s). The NAHC recommends that known traditional cultural resources recorded on or adjacent to the APE be listed in the draft Environmental Impact Report (DEIR).

If an additional archaeological inventory survey is required, the final stage is the preparation of a professional report detailing the findings and recommendations of the records search and field survey. We suggest that this be coordinated with the NAHC, if possible. The final report containing site forms, site significance, and mitigation measures should be submitted immediately to the planning department. All information regarding site locations, Native

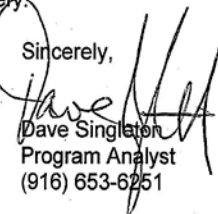
GS4 (Continued)

American human remains, and associated funerary objects should be in a separate confidential addendum, and not be made available for public disclosure pursuant to California Government Code Section 6254.10.

A list of appropriate Native American Contacts for consultation concerning the project site has been provided and is attached to this letter to determine if the proposed active might impinge on any cultural resources. Lack of surface evidence of archeological resources does not preclude their subsurface existence.

Lead agencies should include in their mitigation plan provisions for the identification and evaluation of accidentally discovered archeological resources, pursuant to California Health & Safety Code Section 7050.5 and California Environmental Quality Act (CEQA) §15064.5(f). In areas of identified archaeological sensitivity, a certified archaeologist and a culturally affiliated Native American, with knowledge in cultural resources, should monitor all ground-disturbing activities. Also, CEQA Guidelines Section 21083.2 require documentation and analysis of archaeological items that meet the standard in Section 15064.5 (a)(b)(f). Lead agencies should include in their mitigation plan provisions for the disposition of recovered artifacts, in consultation with culturally affiliated Native Americans. Lead agencies should include provisions for discovery of Native American human remains in their mitigation plan. Health and Safety Code §7050.5, CEQA §15064.5(e), and Public Resources Code §5097.98 mandates the process to be followed in the event of an accidental discovery of any human remains in a location other than a dedicated cemetery.

Sincerely,

  
Dave Singleton  
Program Analyst  
(916) 653-6251

CC: State Clearinghouse

Attachment: Native American Contacts list

GS4 (Continued)

Native American Contacts  
Orange County  
July 8, 2013

Ti'At Society/Inter-Tribal Council of Pimu  
Cindi M. Alvitre, Chairwoman-Manisar  
3094 Mace Avenue, Apt. B Gabrielino  
Costa Mesa, CA 92626  
calvitre@yahoo.com  
(714) 504-2468 Cell

Gabrielino Tongva Nation  
Sam Dunlap, Cultural Resources Director  
P.O. Box 86908 Gabrielino Tongva  
Los Angeles, CA 90086  
samdunlap@earthlink.net

(909) 262-9351 - cell

Juaneno Band of Mission Indians Acjachemen Nation  
David Belardes, Chairperson  
32161 Avenida Los Amigos Juaneno  
San Juan Capistrano CA 92675 m  
chiefdavidbelardes@yahoo.  
(949) 493-4933 - home  
(949) 293-8522

Juaneno Band of Mission Indians Acjachemen Nation  
Teresa Romero, Chairwoman  
31411-A La Matanza Street Juaneno  
San Juan Capistrano CA 92675-2674  
(949) 488-3484  
(949) 488-3294 - FAX  
(530) 354-5876 - cell

Tongva Ancestral Territorial Tribal Nation  
John Tommy Rosas, Tribal Admin.  
Private Address Gabrielino Tongva  
tatnrlaw@gmail.com  
310-570-6567

Gabrielino Tongva Indians of California Tribal Council  
Robert F. Dorame, Tribal Chair/Cultural Resources  
P.O. Box 490 Gabrielino Tongva  
Bellflower CA 90707  
gtongva@verizon.net  
562-761-6417 - voice  
562-761-6417- fax

Gabrielino/Tongva San Gabriel Band of Mission  
Anthony Morales, Chairperson  
PO Box 693 Gabrielino Tongva  
San Gabriel, CA 91778  
GTTribalcouncil@aol.com  
(626) 286-1632  
(626) 286-1758 - Home  
(626) 286-1262 -FAX

Juaneno Band of Mission Indians  
Alfred Cruz, Cultural Resources Coordinator  
P.O. Box 25628 Juaneno  
Santa Ana, CA 92799  
alfredgacruz@sbcglobal.net  
714-998-0721  
714-998-0721 - FAX  
714-321-1944 - cell

This list is current only as of the date of this document.

Distribution of this list does not relieve any person of the statutory responsibility as defined in Section 7050.5 of the Health and Safety Code, Section 5097.94 of the Public Resources Code and Section 5097.98 of the Public Resources Code.

This list is only applicable for contacting local Native Americans with regard to cultural resources for the proposed SCH#2009091001; CEQA Notice of Completion; Supplemental Environmental Impact Report (SEIR) for the San Diego Freeway (I-405) Improvements Project; located in northern portion of Orange County, California.

GS4 (Continued)

Native American Contacts  
Orange County  
July 8, 2013

Gabrielino Band of Mission Indians  
Andrew Salas, Chairperson  
P.O. Box 393 Gabrielino  
Covina, CA 91723  
gabrielinolandians@yahoo.  
(626) 926-4131

United Coalition to Protect Panhe (UCPP)  
Rebecca Robles  
119 Avenida San Fernando Juaneno  
San Clemente CA 92672  
rebobles1@gmail.com  
(949) 573-3138

Gabrielino-Tongva Tribe  
Bernie Acuna, Co-Chairperson  
P.O. Box 180 Gabrielino  
Bonsall, CA 92003  
(619) 294-6660-work  
(310) 428-5690 - cell  
(760) 636-0854- FAX  
bacuna1@gabrielinotribe.org

Juaneno Band of Mission Indians Acjachemen Nation  
Joyce Perry, Representing Tribal Chairperson  
4955 Paseo Segovia Juaneno  
Irvine, CA 92612  
kaamalam@gmail.com  
949-293-8522

Gabrielino-Tongva Tribe  
Conrad Acuna,  
P.O. Box 180 Gabrielino  
Bonsall, CA 92003  
760-636-0854 - FAX

Gabrielino-Tongva Tribe  
Linda Candelaria, Co-Chairperson  
P.O. Box 180 Gabrielino  
Bonsall, CA 92003  
palmsprings9@yahoo.com  
626-676-1184- cell  
(760) 636-0854 - FAX

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This list is only applicable for contacting local Native Americans with regard to cultural resources for the proposed SCH#2009091001; CEQA Notice of Completion; Supplemental Environmental Impact Report (SEIR) for the San Diego Freeway (I-405) Improvements Project; located in northern portion of Orange County, California.

## **RESPONSE TO GOVERNMENT (STATE) COMMENTS (GS)**

### **Response to Comment Letter GS1**

#### **Comment GS1-1**

Caltrans and OCTA thank the California Department of Fish and Wildlife (CDFW) for participating in the environmental process for the I-405 Improvement Project and acknowledge that CDFW has no comments on the Supplemental Draft EIR/EIS. CDFW will be notified when the Final EIR/EIS is available for review.

### **Response to Comment Letter GS2**

#### **Comment GS2-1**

Caltrans and OCTA thank the California Public Utilities Commission (CPUC) for participating in the environmental process for the I-405 Improvement Project. CPUC's comment is not specific to the new information and analysis presented within the Supplemental Draft EIR/EIS. CPUC will be notified when the Final EIR/EIS is available for review.

A site diagnostics meeting will be arranged with the Commission's Rail Crossing Engineering Section, United States Navy, and Union Pacific Railroad (UPRR) during the design phase to discuss relevant safety issues and requirements for authorization to alter the existing grade-separated crossings.

### **Response to Comment Letter GS3**

#### **Comment GS3-1**

Caltrans and OCTA thank the California Transportation Commission (CTC) for participating in the environmental process for the I-405 Improvement Project. CTC's comments were considered during identified of the Preferred Alternative as described in the Final EIR/EIS. You will be notified at the address provided in your comment when the Final EIR/EIS is available for review.

CTC shall receive a copy of the Final EIR/EIS and be notified as soon as the environmental process is complete so that it may consider the project for future consideration of funding. As described, beginning on Page 1-1 of the Final EIR/EIS, the Regional Transportation Plan (RTP) and Federal Transportation Improvement Program (FTIP) will be modified to include the Preferred Alternative.

## **Response to Comment Letter GS4**

### **Comment GS4-1**

Caltrans and OCTA thank the Native American Heritage Commission (NAHC) for participating in the environmental process for the I-405 Improvement Project. NAHC's comment is not specific to the new information and analysis presented within the Supplemental Draft EIR/EIS. NAHC will be notified when the Final EIR/EIS is available for review. Please see Appendix R1 (Response to Comments on Draft EIR/EIS) for Responses to Comments GS5-1 through GS5-5.